

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

SHARI L. REBROOK,

Plaintiff,

v.

CIVIL ACTION NO. 1:09CV50
(Judge Keeley)

MICHAEL J. ASTRUE, COMMISSIONER
OF SOCIAL SECURITY ADMINISTRATION,

Defendant.

ORDER ADOPTING MAGISTRATE JUDGE'S
OPINION/REPORT AND RECOMMENDATION

Pursuant to 28 U.S.C. §636(b)(1)(B), Rule 72(b), Federal Rules of Civil Procedure and Local Court Rule 4.01(d), on April 14, 2009, the Court referred this Social Security action to United States Magistrate Judge John S. Kaull with directions to submit proposed findings of fact and a recommendation for disposition.

On May 14, 2010, Magistrate Judge Kaull filed his Report and Recommendation/Opinion ("R&R"), and directed the parties, in accordance with 28 U.S.C. §636(b)(1) and Rule 6(e), Fed. R. Civ. P., to file with the Clerk of Court any written objections within ten (10) days after being served with a copy of the R&R. He further directed the parties that failure to file objections would result in a waiver of the right to appeal from the judgment of this Court. The parties did not file any objections.

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Upon consideration of Magistrate Judge's recommendation and having received no written objections,¹ the Court accepts and approves the R&R and **ORDERS** that Magistrate Judge Kaull's R&R is accepted in whole and that this civil action be disposed of in accordance with the recommendation of the Magistrate. Accordingly,

1. the Commissioner's motion for Summary Judgment (dkt. no. 17) is **DENIED**;
2. the plaintiff's motion for Summary Judgment (dkt. no. 12) is **GRANTED**;
3. the claim is **REMANDED** to the Commissioner for consideration pursuant to the recommendations contained in Magistrate Judge Kaull's Report and Recommendation/Opinion; and
4. this civil action is **DISMISSED WITH PREJUDICE** and **RETIRED** from the docket of this Court.

¹ The parties' failure to object to the Report and Recommendation not only waives his appellate rights in this matter, but also relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See Wells v. Shriners Hospital, 109 F.3d 198, 199-200 (4th Cir. 1997); Thomas v. Arn, 474 U.S. 140, 148-153 (1985).

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Pursuant to Fed.R.Civ.P. 58, the Court directs the Clerk of Court to enter a separate judgment order and to transmit copies of this Order to counsel of record.

DATED: June 3, 2010.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE